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August 6, 2008

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Ex Parte Notice
ET Docket No. 04-186**

Dear Ms. Dortch:

On August 6, 2008, Charles Townsend and the undersigned, both representing Aloha Partners, L.P. ("Aloha"), met with Chairman Martin and Aaron Goldberger of Chairman Martin's office and discussed matters in the enclosed handouts.

Pursuant to 47 C.F.R. § 1.1206(b)(2), this notice is being submitted electronically in the above-referenced docket. In addition, one copy of this notice is being transmitted via e-mail to Aaron Goldberger.

Very truly yours,

/s/ Thomas Gutierrez
Counsel for Aloha Partners, L.P.

Enclosure

cc: Aaron Goldberger, Esq.

Aloha Partners, L.P.

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August 6, 2008

Chairman Kevin Martin
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: ET Docket No. 04-186

Dear Chairman Martin:

I look forward to meeting with you tomorrow at 4:00PM to discuss the White Space issues. In preparation for the meeting, I wanted to provide you with an overview of the 5 areas that we wanted to discuss:

1. White Space Auctions could generate up to \$25 Billion in Auction Revenues

A key issue that needs to be considered is how much revenue would be generated if the White Space is licensed and auctioned. The well respected Brattle Group has analyzed this issue extensively. Their conclusion is that auction revenues of \$10-25 Billion would be generated. Aloha Partners conducted a more conservative analysis and concluded that auction revenues of \$8-15 Billion could be expected. The key variable in both of these analyses is whether adjacent channel operation will be permitted below Channel 51 in the White Space. The Broadcasters have opposed adjacent channel operation. However, the Commission has already developed rules regarding adjacent channel interference for Channels 52-69 that are equally applicable below channel 51.

Furthermore, the Broadcasters have established a rigorous adjacent channel interference methodology that calculates whether adjacent channel interference is acceptable or not from other broadcast signals. The Broadcasters have used this methodology for the past 20 years to justify adjacent channel operation. This Broadcast methodology is just as applicable for the White Space channels that are to be used for Mobile TV applications.

2. An average of 75 MHz of White Space spectrum is available in the top 5 markets

A second key issue that needs to be considered is how much White Space would be available in both urban and rural markets. The Brattle Group study demonstrates on an MTA-by-MTA basis how much White Space spectrum will be available under different regulatory frameworks. This study indicates that in the top 5 markets like New York, Los Angeles, Chicago, Philadelphia, and San Francisco between 60 to 115 MHz of clear spectrum would be available if adjacent channel operation is permitted. This is more spectrum than was available in the recent 700 MHz auction. In rural markets the average clear spectrum is over 200 MHz, if adjacent operation is permitted. The net out of this analysis is that there is an enormous amount of spectrum that can be used for commercial operations if the White Space is licensed and adjacent channel operation is permitted.

3. Licensed Broadband has dramatic advantages in rural areas

Aloha Partners requested the Lukas, Nace, Gutierrez and Sachs engineers to compare coverage potential of licensed versus unlicensed operation in rural areas. Based on a typical licensed power of 1kW for the licensed spectrum versus 1 W for the unlicensed spectrum, the engineers estimated that a licensed signal can travel up to 30 miles in rural areas, but an unlicensed signal can travel only up to 4 miles. This difference results in over a 50 to 1 coverage advantage for the licensed spectrum. That means that for every licensed cell site, there will need to be roughly 50

unlicensed cell sites. The only way to successfully provide broadband to rural areas is on a licensed basis so that power levels can be maximized and interference can be reduced. The National Telecommunications Cooperative Association (NTCA) recently conducted a survey of its membership about wireless broadband issues in rural areas. NTCA represents over 580 small and rural telephone companies throughout the U.S. 73% of NTCA's members indicated that they would prefer access to additional licensed spectrum over additional unlicensed spectrum.

4. Unlicensed Wi-Fi experiments have been failures

There have been a significant number of experiments with unlicensed Wi-Fi in major metropolitan areas, including San Francisco, Philadelphia, and Portland. In every instance these experiments have been a failure or were shut down before they started. They have not failed due to lack of funding: EarthLink has spent in excess of \$20 million building unlicensed Wi-Fi operations in several of these cities. These experiments have failed due to lack of demand for unlicensed Wi-Fi service. EarthLink had expected to have over 100,000 customers in Philadelphia in the first year. In spite of extensive marketing efforts, EarthLink was only able to attract 5,942 subscribers.

The Palo Alto Weekly article entitled "**Into thin air- Why Silicon Valley Wi-Fi fizzled**" explained what happened:

"It seemed like a good idea- Internet for everyone. So much so that cities across the United States announced plans for citywide Wi-Fi networks in an excited chorus starting in the early 2000s. But in the last few years, most cities' plans to provide Internet access through a wireless network have fallen flat, deflated by shortcomings in technology and financial woes. This spring, Silicon Valley became the latest casualty of the Wi-Fi flop. In April, Internet provider EarthLink pulled out of Milpitas, part of a strategy to abandon the municipal- wireless business altogether. In May, Metrofi announced plans to pull the plug on Wi-Fi service to Cupertino, Sunnyvale, downtown San Jose, Santa Clara, Foster City and Concord. Those services went dark in June."

The reason for these consistent failures was simple....no customers. Even in Google's own backyard, no one has been able to attract enough customers to make unlicensed Wi-Fi viable.

5. Licensed spectrum is significantly more utilized than unlicensed spectrum

We have reviewed several spectrum utilization studies and found that there are many licensed frequency bands that are indeed underutilized. Most of these are frequencies in the 1240-1710 MHz bands. However, this is very deceptive because much of the spectrum in the 1240-1710 MHz bands is licensed to non-commercial operations. If one compares the unlicensed PCS band (2390-2500 MHz) to the licensed PCS band (1850-1990 MHz), the studies consistently indicate the opposite conclusion: Licensed PCS frequencies are utilized significantly more than the unlicensed frequencies. In 2005 the National Science Foundation studied spectrum utilization in 7 different locations throughout the United States. In 6 of those 7 locations, licensed PCS spectrum is utilized significantly more than unlicensed PCS spectrum.

I look forward to meeting with you tomorrow and providing you additional information about each of these issues.

Sincerely,

/s/

Charles Townsend
President
Aloha Partners, L.P.

cc: Aaron Goldberger, Esq.

White Space Presentation

FCC Chairman Kevin Martin

August 6, 2008

By: Charles Townsend

Aloha Partners

Tom Gutierrez

Lukas, Nace, Gutierrez, & Sachs

White Space Auction Revenue Estimates

<u>Protected Channels</u>	<u>Aloha Partners Est.</u>	<u>Brattle Group Est.</u>
Co Channel Only	\$15 Billion	\$25 Billion
Co & Adjacent Channels	\$8 Billion	\$12 Billion

White Space

Clear Spectrum Estimates

Minimum Bandwidth of White Space

<u>MTA</u>	<u>Co - Channel Only</u>	<u>Co & Adjacent Channel</u>	<u>Difference</u>
New York	66 MHz	0 MHz	-66 MHz
Los Angeles	60 MHz	6 MHz	-54 MHz
Chicago	114 MHz	18 MHz	-96 MHz
San Francisco	72 MHz	18 MHz	-54 MHz
Dallas- Fort Worth	132 MHz	18 MHz	-116 MHz
Top 5 Wtg. Average	66 MHz	10 MHz	-56 MHz
6-10 Wtg. Average	115 MHz	25 MHz	-90 MHz
11-30 Wtg. Average	140 MHz	40 MHz	-100 MHz
Rural Wtg. Average	170 MHz	60 MHz	-110 MHz
U.S. Average	120 MHz	30 MHz	-90 MHz

Note: Minimum MHz/MTA
based on Brattle Group Study

White Space Rural Coverage Comparison

	<u>Power Level</u>	<u>Cell Radius</u>	<u>Square Miles Covered</u>	<u># Cells per 10,000 Sq. Mi.</u>
<u>Licensed Spectrum</u>	1 kW	30 Miles	2825 Sq. Mi.	3.5 Cells
<u>Unlicensed Spectrum</u>	1 Watt	4 Miles	50 Sq. Mi.	200 Cells

Unlicensed Wi-Fi Failures

<u>City</u>	<u>Provider</u>	<u>Status</u>
Philadelphia	Earthlink	Shut Down
Portland	MetroFi	Shut Down
Sunnyvale	MetroFi	Shut Down
Milpitas	MetroFi	Shut Down
Cupertino	MetroFi	Shut Down
San Jose	MetroFi	Shut Down
Santa Clara	MetroFi	Shut Down
Foster City	MetroFi	Shut Down
Concord	MetroFi	Shut Down
San Francisco	Earthlink	Discontinued
New Orleans	Earthlink	Discontinued
Toronto	Earthlink	Discontinued

National Science Foundation Spectrum Utilization Analysis

<u>Location</u>	<u>Licensed PCS-UL</u>	<u>Licensed PCS-DL</u>	<u>Unlicensed PCS</u>
Chicago	0%	43%	29%
New York	0%	19%	26%
Tysons Cr	0%	18%	7%
NSF Roof	19%	38%	14%
Average	5%	30%	19%
Average Total	0%	10%	6%